



Amendment No. 5
of
Contract No. NS15000017
for
Parking Equipment, Software, Maintenance, and Repairs
between
Mitchell Adding Machine Co., Inc. dba Mitchell Time and Parking
and the
City of Austin

1.0 The City hereby amends the above referenced contract to add the Building Services Department as an authorized department on this contract.

1.1 Add to Section 1.4 of the Contract the following Contract Manager for the Building Services Department:

Julie Strickland, Phone: 512-974-3980, Email Address: Julie.strickland@austintexas.gov

1.2 Add to the Parking Facilities table in Section 2.1 of the Contract:

Facility	Address
Health South	1215 Red River Street

1.3 Add to Section 3.3.1 of the Contract:

Department:	Building Services Department
Email Address:	bsdapinvoices@austintexas.gov

2.0 The City hereby amends the above referenced contract to increase authorization by \$10,000. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 02/26/2015 – 02/25/2018	\$678,816.00	\$678,816.00
Amendment No. 1: Modifications to Sections 2.1.1.4, 2.1.4.1, 2.1.6.3, and 3.3.2 and the addition of Section 6.3	\$0.00	\$678,816.00
Amendment No. 2: Add parking tickets to Exhibit B – Equipment and Software List	\$0.00	\$678,816.00
Amendment No. 3: Option 1 02/26/2018 – 02/25/2021	\$218,548.00	\$897,364.00
Amendment No. 4: Add Durasteel PC portable structure to Exhibit B – Equipment and Software List	\$0.00	\$897,364.00
Amendment No. 5: Add Building Services and Admin Increase	\$10,000.00	\$907,364.00

3.0 MBE/WBE goals were not established for this contract.

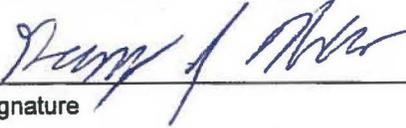
4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

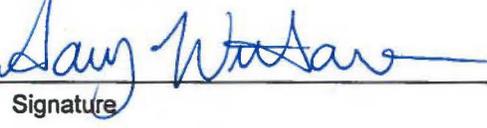
5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

MITCHELL ADDING MACHINE CO., INC. dba
MITCHELL TIEM AND PARKING

CITY OF AUSTIN


Signature


Signature

Gary J Hobbs
Printed Name of Authorized Person

Sandy Witanen
Printed Name of Authorized Person

President
Title

Procurement Specialist IV
Title

10/24/18
Date

10/24/18
Date



Amendment No. 4
of
Contract No. NS150000017
for
Parking Equipment, Software, Maintenance, and Repairs
between
Mitchell Adding Machine Co., Inc. dba Mitchell Time and Parking
and the
City of Austin

- 1.0 The City hereby amends the above referenced contract to update Exhibit B – Equipment and Software List to add a Durasteel PC portable structure.
- 2.0 The total contract amount is unchanged. The total Contract authorization is recapped below:

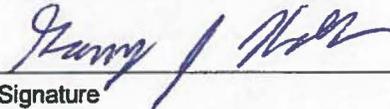
Term	Action Amount	Total Contract Amount
Basic Term: 02/26/2015 – 02/25/2018	\$678,816.00	\$678,816.00
Amendment No. 1: Modifications to Sections 2.1.1.4, 2.1.4.1, 2.1.6.3, and 3.3.2 and the addition of Section 6.3	\$0.00	\$678,816.00
Amendment No. 2: Add parking tickets to Exhibit B – Equipment and Software List	\$0.00	\$678,816.00
Amendment No. 3: Option 1 02/26/2018 – 02/25/2021	\$218,548.00	\$897,364.00
Amendment No. 4: Add Durasteel PC portable structure to Exhibit B – Equipment and Software List	\$0.00	\$897,364.00

- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

**MITCHELL ADDING MACHINE CO., INC. dba
MITCHELL TIME AND PARKING**

CITY OF AUSTIN


Signature


Signature

Gary J Hobbs
Printed Name of Authorized Person

Sandy Wirtanen
Printed Name of Authorized Person

President
Title

Procurement Specialist IV
Title

9/28/18
Date

9/28/18
Date

**EXHIBIT B
EQUIPMENT AND SOFTWARE LIST**

May be modified by written amendment to this Contract.
Amended 09/26/2018

5th Street Garage

Description	Serial #
AGP-1711 PARKING GATE	643027390
AGP-1711 PARKING GATE	643027363
AGP-1711 PARKING GATE	643027364
AGP-1711 PARKING GATE	643026904
L5 LOOPS 2' x 6' w/ 25' LEAD-IN	(8 EACH)
ETP-22 WHITE TICKET DISPENSER	643027239
ETP-22 WHITE TICKET DISPENSER	643027423
KIT-10 COUNT SIGNAL BOARD	(4 EACH)
AGP-5200 FEE COMPUTER CASH DRAWER, TILL TRAY & LOCKING COVER	(2 EACH)
DT280 PMDL PROXIMITY READER	12998
DT280 PMDL PROXIMITY READER	12999
DT280 PMDL PROXIMITY READER	12997
DT280 PMDL PROXIMITY READER	12996
AGP-5200 FEE COMPUTER	643002715
AGP-5200 FEE COMPUTER	643002734
AGP-5600 READER/VALIDATOR	643002070
AGP-5600 READER/VALIDATOR	643002071
AGP-5900 FEE INDICATOR	643002711
AGP-5900 FEE INDICATOR	643002714
AGP-6800 PAY STATION	1832
INK STAMP FOR HR-200	(2 EACH)
HR-200 HAND ENCODER	643001468
HR-200 HAND ENCODER	643001470
HR-200 BASE	(2 EACH)
TC CONVERTER	(3 EACH)
SIGNAL TECH 1212 GR-175 ARROW CPM SIGN	(12 EACH)
P90 SIGNAL POST	(9 EACH)
TCL 718 GR-220 OPEN FULL SIGN	
DOUBLE THROW SWITCHES	(3 EACH)
DELL COMPUTER	(2 EACH)
AGP 6800 Pay In Lane	
UPS BATTERY BACKUP	
8 PORT ROCKET PORT BOARD	

Brazos Street Garage

Description	Serial #
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033899
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033898
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033894
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033901
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033893
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663034175
L5 LOOPS 2' x 6' w/ 25' LEAD-IN	(2 EACH)
KIT-10 COUNT SIGNAL BOARD	(6 EACH)
ETP-22SNY MAG TICKET DISPENSER	663033939
ETP-22SNY MAG TICKET DISPENSER	663033941
AGP-5200 FEE COMPUTER	663003518
AGP-5200 FEE COMPUTER	663003515
TILL TRAY w/ LOCKING COVER	(2 EACH)
AGP-5600 READER/VALIDATOR	663002616
AGP-5600 READER/VALIDATOR	663002618
AGP-5900 FEE INDICATOR	662003346
AGP-5900 FEE INDICATOR	662003343
AGP-6800 PAY STATION	1836
AGP-6800 PAY STATION	1838
PEDESTAL FOR CARD READERS	(6 EACH)
TC CONVERTER	(3 EACH)
HR-200 CLAMSHELL HAND ENCODER	(2 EACH)
HR-200 BASE	(2 EACH)
2.4 GHZ INTEL PENTIUM 4	295534534
I/O PANELS	(2 EACH)
PRX 280M DUAL TECH PROXIMITY READER	15247
PRX 280M DUAL TECH PROXIMITY READER	15250
PRX 280M DUAL TECH PROXIMITY READER	15252
PRX 280M DUAL TECH PROXIMITY READER	15242
PRX 280M DUAL TECH PROXIMITY READER	15243
PRX 280M DUAL TECH PROXIMITY READER	15248

Palmer Events Center

Description	Serial #
AGP-1711 PARKING GATE w/ DETECTOR	683044816
AGP-1711 PARKING GATE w/ DETECTOR	664035294
AGP-1711 PARKING GATE w/ DETECTOR	664035437

AGP-1711 PARKING GATE w/ DETECTOR	663033892
AGP-1711 PARKING GATE w/ DETECTOR	663034176
AGP-1711 PARKING GATE w/ DETECTOR	664035439
AGP-1711 PARKING GATE w/ DETECTOR	664035435
AGP-1711 PARKING GATE w/ DETECTOR	664035438
KIT-10 COUNT SIGNAL BOARD	(7 EACH)
ETP-22SNY MAG-STRIPE TICKET DISPENSER	664035486
ETP-22SNY MAG-STRIPE TICKET DISPENSER	664034713
ETP-22SNY MAG-STRIPE TICKET DISPENSER	672077211
ETP-22SNY MAG-STRIPE TICKET DISPENSER	664034712
AGP-5200 FEE COMPUTER	683004381
AGP-5200 FEE COMPUTER	663003577
AGP-5200 FEE COMPUTER	663003531
AGP-5200 FEE COMPUTER	663003510
AGP-5600 READER/VALIDATOR	663002615
AGP-5600 READER/VALIDATOR	662002570
AGP-5600 READER/VALIDATOR	664002707
AGP-5900 FEE INDICATOR	654003498
AGP-5900 FEE INDICATOR	663003367
AGP-5900 FEE INDICATOR	662003342
HR-200(STORE VALIDATION) HAND ENCODER	672004021
HR-200(STORE VALIDATION) HAND ENCODER	672004006
I/O PANELS	(4 EACH)
PRX280M PROXIMITY READER	15251
PRX280M PROXIMITY READER	18197
PRX280M PROXIMITY READER	15245
PRX280M PROXIMITY READER	15249
PRX280M PROXIMITY READER	15243
PRX280M PROXIMITY READER	15246
PRX280M PROXIMITY READER	15241
PRX280M PROXIMITY READER	15244
DELL LANE CONTROLLER COMPUTER	
FlexScan Barcode Imager Kit for AMG-2070/4070 Series	BCSY281XR20089
FlexScan Barcode Imager Kit for OPUS-7000/AMG-6700/AMG-6700	O-0170/000-1000-
FlexScan Barcode Imager Kit for OPUS-5000 Series	O-0150/000-1000
Durasteel PC portable structure	EACH

Software

Description
Amano McGann iParcProfessional Access Software
Amano McGann iParcProfessional Revenue Software
Amano McGann iParcProfessional Level Count Software Module
Amano McGann iParcProfessional Credit Card Processing Module
Amano McGann iParcProfessional Event Management Revenue Software

Pre-Printed Parking Garage Tickets

Description
Magnetic Stripe Dispenser Tickets (all colors)
Validation Tickets
Hand Issued Tickets
Ribbons (RWPV and Validator)
Thermal 5200 Paper

Item No.	Description	Annual Estimated Quantity	Unit of Measure	Unit Price	Extended Price (est. Qty x Unit Price)	Delivery/Lead-Time, after receipt of order
1	Magnetic Stripe Dispenser Tickets (all available colors)	200,000	1000	\$17.50 per 1000	\$3,500.00	20 working days
2	Validation Tickets	20,000	1000	\$17.50 per 1000	\$3,500.00	20 working days
3	Hand Issued Tickets	200,000	1000	\$26.35 per 1000	\$5,270.00	20 working days
4	Ribbons (RWPV and Validator)		1 Ribbon	\$21.95		In Stock
5	Thermal 5200 Paper		1 Roll	\$2.25		In Stock



Amendment No. 3
of
Contract No. NS150000017
for
Parking Equipment, Software, Maintenance, and Repairs
between
Mitchell Adding Machine Co., Inc. dba Mitchell Time and Parking
and the
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective February 26, 2018 to February 25, 2021. No options remain.
- 2.0 The total contract amount is increased by \$218,548.00 for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 02/26/2015 - 2/25/2018	\$678,816.00	\$678,816.00
Amendment No. 1: Modifications to Sections 2.1.1.4, 2.1.4.1, 2.1.6.3, and 3.3.2 and the addition of Section 6.3	\$0.00	\$678,816.00
Amendment No. 2 Add parking tickets to Exhibit B-Equipment and Software List	\$0.00	\$678,816.00
Amendment No. 3: Option 1 2/26/2018 - 2/25/2021	\$218,548.00	\$897,364.00

- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment, the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature & Date:  2/5/18
Printed Name: Gary J. Hobbs, President
Authorized Representative

Signature & Date:  2-20-18
Matthew Duree, Procurement Manager
City of Austin
Purchasing Office

Mitchell Adding Machine Co., Inc.
dba Mitchell Time and Parking
4806 N IH-35
Austin, TX 78751



Amendment No. 2
to
Contract No. NS15000017
for
Parking Equipment, Software, Maintenance, and Repairs
between
Mitchell Adding Machine Co., Inc. dba Mitchell Time and Parking ("Contractor")
and the
City of Austin, Texas

- 1.0 The City hereby amends the above referenced contract to adjust Exhibit B-Equipment and Software List to add equipment compatible parking tickets.
- 2.0 The total Contract amount is recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Original Contract: Council approved award of a 36-month contract with one 36-month extension option in an amount not to exceed \$897,364.	\$897,364.00	\$897,364.00
Amendment No. 1: Modifications to Sections 2.1.1.4, 2.1.4.1, 2.1.6.3, and 3.3.2 and the addition of Section 6.3.	\$0.00	\$897,364.00
Amendment No. 2 Add parking tickets to Exhibit B-Equipment and Software List	\$0.00	\$897,364.00

- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above referenced contract.

Signature & Date:

Gary J. Hobbs

Printed Name: Gary T. Hobbs
Authorized Representative

Mitchell Time and Parking
4806 North IH-35
Austin, Texas 78751

Signature & Date:

Claudia Rodriguez 3/23/17

Claudia Rodriguez, Procurement Specialist III
City of Austin Purchasing Office

**EXHIBIT B
EQUIPMENT AND SOFTWARE LIST**

May be modified by written amendment to this Contract.
Amended 03/14/2017

5th Street Garage

Description	Serial #
AGP-1711 PARKING GATE	643027390
AGP-1711 PARKING GATE	643027363
AGP-1711 PARKING GATE	643027364
AGP-1711 PARKING GATE	643026904
L5 LOOPS 2' x 6' w/ 25' LEAD-IN	(8 EACH)
ETP-22 WHITE TICKET DISPENSER	643027239
ETP-22 WHITE TICKET DISPENSER	643027423
KIT-10 COUNT SIGNAL BOARD	(4 EACH)
AGP-5200 FEE COMPUTER CASH DRAWER, TILL TRAY & LOCKING COVER	(2 EACH)
DT280 PMDL PROXIMITY READER	12998
DT280 PMDL PROXIMITY READER	12999
DT280 PMDL PROXIMITY READER	12997
DT280 PMDL PROXIMITY READER	12996
AGP-5200 FEE COMPUTER	643002715
AGP-5200 FEE COMPUTER	643002734
AGP-5600 READER/VALIDATOR	643002070
AGP-5600 READER/VALIDATOR	643002071
AGP-5900 FEE INDICATOR	643002711
AGP-5900 FEE INDICATOR	643002714
AGP-6800 PAY STATION	1832
INK STAMP FOR HR-200	(2 EACH)
HR-200 HAND ENCODER	643001468
HR-200 HAND ENCODER	643001470
HR-200 BASE	(2 EACH)
TC CONVERTER	(3 EACH)
SIGNAL TECH 1212 GR-175 ARROW CPM SIGN	(12 EACH)
P90 SIGNAL POST	(9 EACH)
TCL 718 GR-220 OPEN FULL SIGN	
DOUBLE THROW SWITCHES	(3 EACH)
DELL COMPUTER	(2 EACH)
AGP 6800 Pay In Lane	
UPS BATTERY BACKUP	
8 PORT ROCKET PORT BOARD	

Brazos Street Garage

Description	Serial #
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033899
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033898
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033894
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033901
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033893
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663034175
L5 LOOPS 2' x 6' w/ 25' LEAD-IN	(2 EACH)
KIT-10 COUNT SIGNAL BOARD	(6 EACH)
ETP-22SNY MAG TICKET DISPENSER	663033939
ETP-22SNY MAG TICKET DISPENSER	663033941
AGP-5200 FEE COMPUTER	663003518
AGP-5200 FEE COMPUTER	663003515
TILL TRAY w/ LOCKING COVER	(2 EACH)
AGP-5600 READER/VALIDATOR	663002616
AGP-5600 READER/VALIDATOR	663002618
AGP-5900 FEE INDICATOR	662003346
AGP-5900 FEE INDICATOR	662003343
AGP-6800 PAY STATION	1836
AGP-6800 PAY STATION	1838
PEDESTAL FOR CARD READERS	(6 EACH)
TC CONVERTER	(3 EACH)
HR-200 CLAMSHELL HAND ENCODER	(2 EACH)
HR-200 BASE	(2 EACH)
2.4 GHZ INTEL PENTIUM 4	295534534
I/O PANELS	(2 EACH)
PRX 280M DUAL TECH PROXIMITY READER	15247
PRX 280M DUAL TECH PROXIMITY READER	15250
PRX 280M DUAL TECH PROXIMITY READER	15252
PRX 280M DUAL TECH PROXIMITY READER	15242
PRX 280M DUAL TECH PROXIMITY READER	15243
PRX 280M DUAL TECH PROXIMITY READER	15248

Palmer Events Center

Description	Serial #
AGP-1711 PARKING GATE w/ DETECTOR	683044816
AGP-1711 PARKING GATE w/ DETECTOR	664035294
AGP-1711 PARKING GATE w/ DETECTOR	664035437

AGP-1711 PARKING GATE w/ DETECTOR	663033892
AGP-1711 PARKING GATE w/ DETECTOR	663034176
AGP-1711 PARKING GATE w/ DETECTOR	664035439
AGP-1711 PARKING GATE w/ DETECTOR	664035435
AGP-1711 PARKING GATE w/ DETECTOR	664035438
KIT-10 COUNT SIGNAL BOARD	(7 EACH)
ETP-22SNY MAG-STRIPE TICKET DISPENSER	664035486
ETP-22SNY MAG-STRIPE TICKET DISPENSER	664034713
ETP-22SNY MAG-STRIPE TICKET DISPENSER	672077211
ETP-22SNY MAG-STRIPE TICKET DISPENSER	664034712
AGP-5200 FEE COMPUTER	683004381
AGP-5200 FEE COMPUTER	663003577
AGP-5200 FEE COMPUTER	663003531
AGP-5200 FEE COMPUTER	663003510
AGP-5600 READER/VALIDATOR	663002615
AGP-5600 READER/VALIDATOR	662002570
AGP-5600 READER/VALIDATOR	664002707
AGP-5900 FEE INDICATOR	654003498
AGP-5900 FEE INDICATOR	663003367
AGP-5900 FEE INDICATOR	662003342
HR-200(STORE VALIDATION) HAND ENCODER	672004021
HR-200(STORE VALIDATION) HAND ENCODER	672004006
I/O PANELS	(4 EACH)
PRX280M PROXIMITY READER	15251
PRX280M PROXIMITY READER	18197
PRX280M PROXIMITY READER	15245
PRX280M PROXIMITY READER	15249
PRX280M PROXIMITY READER	15243
PRX280M PROXIMITY READER	15246
PRX280M PROXIMITY READER	15241
PRX280M PROXIMITY READER	15244
DELL LANE CONTROLLER COMPUTER	

Software

Description
Amano McGann iParcProfessional Access Software
Amano McGann iParcProfessional Revenue Software
Amano McGann iParcProfessional Level Count Software Module
Amano McGann iParcProfessional Credit Card Processing Module
Amano McGann iParcProfessional Event Management Revenue Software

Pre-Printed Parking Garage Tickets

Description
Magnetic Stripe Dispenser Tickets (all colors)
Validation Tickets
Hand Issued Tickets
Ribbons (RWPV and Validator)
Thermal 5200 Paper

Item No.	Description	Annual Estimated Quantity	Unit of Measure	Unit Price	Extended Price (est. Qty x Unit Price)	Delivery/Lead-Time, after receipt of order
1	Magnetic Stripe Dispenser Tickets (all available colors)	200,000	1000	\$17.50 per 1000	\$3,500.00	20 working days
2	Validation Tickets	20,000	1000	\$17.50 per 1000	\$3,500.00	20 working days
3	Hand Issued Tickets	200,000	1000	\$26.35 per 1000	\$5,270.00	20 working days
4	Ribbons (RWPV and Validator)		1 Ribbon	\$21.95		In Stock
5	Thermal 5200 Paper		1 Roll	\$2.25		In Stock



Amendment No. 1
to
Contract No. NS150000017
for
Parking Equipment, Software, Maintenance, and Repairs
Between
Mitchell Adding Machine Co., Inc. dba Mitchell Time and Parking ("Contractor")
and the
City of Austin

- 1.0 The above referenced Contract is hereby amended as follows:
- 1.1 The first sentence of 2.1.1.4 is deleted and replaced with:
Replacement parts will be provided at no additional charge to the City, with the exception of items enumerated in 2.1.1.4.1.
 - 1.2 The following sentence is added to the first Section 2.1.4.1:
The Contractor shall render repair services within a two-hour response time outside of Regular Business Hours for repair services designated as emergencies by the City.
 - 1.3 Section 2.1.6.3 is deleted and replaced with:
The Contractor shall maintain electronic records whereby each individual device and its collective parts and software is tracked with any corresponding updates, repairs, replacement, or other services performed.
 - 1.4 Section 3.3.2 is deleted and replaced with :
Invoices for labor shall include a copy of all work orders with trade labor rate and deliverables order number clearly identified. Invoices shall also include the work location and a tabulation of work hours at the appropriate rates grouped by work order number.
 - 1.5 The following is added as Section 6.3 of the Contract:
Warranty – Software, Products, Parts, or Other. The Contractor represents that all software, products, parts or other such goods provided to the City under the Contract are in good working condition according to their intended use or performance. The Contractor shall repair, update, or replace software, products,

parts, or other goods provided under the Contract at no additional cost to the City during the effective period of this Contract or according to the manufacturer's warranty, whichever is greater.

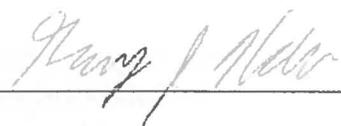
2.0 The total Contract amount is summarized below:

Action	Action Amount	Total Estimated Contract Revenue
Original Contract: Council approved award of a 36-month contract with one 36-month extension option in an amount not to exceed \$897,364.	\$897,364	\$897,364
Amendment No. 1: Modifications to Sections 2.1.1.4, 2.1.4.1, 2.1.6.3, and 3.3.2, and the addition of Section 6.3.	\$0	\$897,364

3.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced Contract.

Signature: 
 Printed Name
 City of Austin
 Purchasing Office

Signature: 
 Gary Hobbs
 Mitchell Time and Parking

6/1/15
 Date

5/25/15
 Date

**CONTRACT BETWEEN THE CITY OF AUSTIN
AND
Mitchell Adding Machine Co., Inc. dba Mitchell Time and Parking
For
Parking Equipment, Software, Maintenance, and Repairs
NS15000017**

This Contract is made by and between the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, and Mitchell Adding Machine Co., Inc. dba Mitchell Time and Parking ("Contractor"), having offices at 4806 North IH-35, Austin, Texas 78751.

SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES

1.1 **Engagement of the Contractor.** Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in Section 2, Scope of Work.

1.2 **Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for accomplishing all aspects of the tasks and associated activities identified in the Scope of Work. In the event that the need arises for the Contractor to perform services beyond those stated in the Scope of Work, the Contractor and the City shall negotiate mutually agreeable terms and compensation for completing the additional services.

1.3 **Responsibilities of the City.** The City's Contract Manager will be responsible for exercising general oversight of the Contractor's activities in completing the Scope of Work. Specifically, the Contract Manager will represent the City's interests in resolving day-to-day issues that may arise during the term of this Contract, shall participate regularly in conference calls or meetings for status reporting, shall promptly review any written reports submitted by the Contractor, and shall approve all invoices for payment, as appropriate. The City's Contract Manager shall give the Contractor timely feedback on the acceptability of progress and task reports.

1.4 **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Gary Hobbs, Phone: (512) 371-7773, Email Address: mtparking@sbcglobal.net. The City's Contract Manager for the engagement shall be Nick Thompson, Phone: (512) 404-4178, Email Address: Nick.Thompson@austintexas.gov. The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

SECTION 2. SCOPE OF WORK

2.1 **Contractor's Obligations.** The Contractor shall fully and timely provide all deliverables described herein in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

Tasks. In order to accomplish the work described herein, the Contractor shall provide software and software upgrades; equipment assessment; equipment, equipment upgrades, parts and labor; training in the use of equipment and software; and preventative maintenance and repairs related to the Parking Facilities named below:

Facility	Address
Palmer Events Center	900 Barton Springs Road
5 th Street Garage	601 E. 5 th Street
2 nd Street Garage (Brazos Street)	201 E. 2 nd Street

The City may add or remove Parking Facilities through a mutually agreed amendment to this Contract.

2.1.1 Equipment, Software, Upgrades, and Replacement Parts

2.1.1.1 The Contractor shall provide all equipment and associated equipment upgrades for items covered under this Contract. Items covered under the Contract are named on the Equipment and Software List (Exhibit B).

2.1.1.2 All equipment and software covered under this Contract will become the property of the City of Austin at the time of installation and after successful testing and acceptance by the City's Contract Manager.

2.1.1.3 City will accept equipment, software, and related materials after installation, integration, testing, and training of City employees.

2.1.1.3.1 City's acceptance will be in writing.

2.1.1.3.2 Contractor shall deliver, install, integrate, and test all equipment and/or software within thirty (30) days of delivery to the City.

2.1.1.3.3 City will make payment after equipment, software, and related materials have been accepted.

2.1.1.4 Replacement parts will be provided at no additional charge to the City, with the items enumerated in 2.1.1.4.1.

2.1.1.4.1 The following will be charged separately to the City: parts needed to repair damage caused by fire, water, accident, or abuse; ribbons; tickets; ticket spitters; gate arms; receipt paper and their application.

2.1.1.4.2 For replacement parts and equipment upgrades charged separately to the City, the Contractor shall offer a discount of 20% (twenty percent) off Manufacturer's Suggested Retail Price.

2.1.1.4.3 The Contractor shall provide the City with an updated price list upon execution of this Contract and whenever prices are modified.

2.1.1.5 Contractor shall remove any equipment or materials deemed non-conforming by the City's Contract Manager within five (5) business days after receipt of written notification from the City.

2.1.1.5.1 Contractor shall remove or dispose of non-conforming equipment or materials at no cost to the City.

2.1.1.5.2 No later than ten business days after disposal, Contractor shall notify the City's Contract Manager via email how equipment was disposed.

2.1.2 Assessment

2.1.2.1 At the City's request and at no additional cost to the City, the Contractor shall conduct an assessment ("Assessment") of equipment, software, and maintenance based on the current and future level of operations. Start and end dates of the Assessment will be mutually agreed upon in writing by both parties. The Contractor shall include in the Assessment, items enumerated on the Equipment and Software List (Exhibit B). Items to be included in the Assessment may be modified upon the parties' mutual written agreement.

2.1.2.1.1 Equipment – the Contractor shall evaluate the condition of all existing hardware equipment. The Contractor shall establish expected replacement dates and provide recommendations for replacement and/or installation of new equipment to enhance functionality of parking operations.

2.1.2.1.2 Software – the Contractor shall evaluate effectiveness of the current version of software against what is currently and readily available as an upgrade. The Contractor shall recommend the most pertinent modules for efficiently managing current and future parking operations.

2.1.2.1.3 Maintenance – the Contractor shall assess all equipment and software maintenance requirements, including any potential “out-of-pocket” fees. The Contractor shall recommend a maintenance schedule that ensures maximum optimization of equipment and software.

2.1.2.2 The Contractor shall provide the City’s Contract Manager with a written summary of the Assessment no later than fifteen (15) business days after the agreed upon end date of the Assessment.

2.1.3 Preventative Maintenance and Repairs Within Regular Business Hours

2.1.3.1 The Contractor shall, on a schedule mutually agreed upon in writing by both parties, provide quarterly preventative maintenance services to the Parking Facilities under this Contract. Preventative maintenance services include:

- 2.1.3.1.1 Regular equipment and software inspections and repairs to ensure they have been optimized according to the latest patches and updates
- 2.1.3.1.2 Cleaning and adjusting the equipment
- 2.1.3.1.3 Replacing parts, as needed, in accordance with Sections 2.1.1.4
- 2.1.3.1.4 Mechanical or programming adjustments or repairs to parking software
- 2.1.3.1.5 Any necessary adjustments as a result of daylight savings time changes

2.1.3.2 The Contractor shall provide repair services on an as-needed basis during regular business hours.

2.1.3.2.1 Regular Business Hours are Monday through Friday, 8am to 5pm.

2.1.3.2.2 The Contractor shall render non-emergency repair services within a four-hour response time and emergency repair services within a one-hour response time during Regular Business Hours.

2.1.3.2.2.1 Response time begins when City makes contact with the Contractor, either through a voicemail message or conversation with a live person. When repair services are requested, the City’s Contract Manager or designee will establish the services as an emergency or non-emergency, either verbally or in writing.

2.1.3.2.3 The Contractor shall maintain a telephone contact number during regular business hours.

2.1.3.3 The Contractor shall provide preventative maintenance and repairs according to the Fee Schedule (Exhibit C).

2.1.4 Repairs Outside of Regular Business Hours

2.1.4.1 The Contractor shall render repair services within a four-hour response time outside of Regular Business Hours.

2.1.4.1.1 Response time begins when City makes contact with Contractor, either through a voicemail message or conversation with a live person.

2.1.4.2 Contractor shall maintain a telephone contact number that is staffed outside of Regular Business Hours.

2.1.4.3 Contractor shall provide repairs outside of Regular Business Hours at the hourly rate indicated in the Fee Schedule in Exhibit C.

2.1.4.3.1 Contractor will charge the City no less than one hour for repair services.

2.1.4.3.2 Contractor shall provide replacement parts, as needed, in accordance with Sections 2.1.1.4.

2.1.5 Training

2.1.5.1 The Contractor shall provide training annually or upon the installation of new equipment or software. Training shall be for the use of the parking equipment and software and shall be at no additional cost to the City. The training schedule will be mutually agreed upon in writing by both parties.

2.1.5.2 The Contractor shall provide additional training, if deemed necessary by the City's Contract Manager, at no additional cost to the City.

2.1.6 Reporting

2.1.6.1 The Contractor shall submit reports ("Report") no later than 14 business days after the close of each quarter, where the quarters are as follows: January 1 to March 31; April 1 to June 30; July 1 to September 30; and October 1 to December 31.

2.1.6.2 The Contractor shall include in the Report, the location and type/description of the equipment, the date of the preventative maintenance, any findings resulting from the preventative maintenance, date and type of repair(s) made (if applicable), number of labor hours for each repair, and repair parts installed on the equipment.

2.1.6.3 The Contractor shall maintain an electronic record-keeping system by which individual records are kept for each piece of equipment or software.

2.1.7 Work Tickets. Upon completion of service call to the Parking Facility(ies), the Contractor shall obtain signature on the work ticket from the Contract Manager or designee, or the parking services Supervisor, verifying the work completed. The work ticket should include a description of services performed and parts repaired and/or replaced and should be signed by the Contractor's technician who performed the work.

SECTION 3. COMPENSATION

3.1 **Contract Amount**. The Contractor will be paid as indicated herein upon the successful completion of the Scope of Work. In consideration for the services to be performed under this Contract, the Contractor shall be paid an amount not to exceed \$678,816 for all fees and expenses for the initial 36 month term, with one 36 month extension option in an amount not to exceed \$218,548 for all fees and expenses, for a total contract amount not to exceed \$897,364.00.

3.2 **Economic Price Adjustment**. In recognition of the potential for fluctuation of the Contractor's cost, a price adjustment (increase or decrease) may be requested by either the City or the Contractor for Preventative Maintenance and/or labor hours for repairs. Price adjustment shall not exceed the year over year price change in the U.S. Bureau of Labor Statistics' Producer Price Index, Industry Data, Series ID: WPU551101, the Index of Commercial Machinery Repair and Maintenance ("Index 1"); and WPU11491102, the Index of General Industrial Machinery Equipment ("Index 2" and collectively referenced as "the Indices").

For the purposes of calculating the price adjustment, "New Month" is defined as the most recent non-preliminary Index. "Base Month" is defined as the New Month of the prior year. The Base Month for year 2 of this Contract (April 1, 2016 to March 31, 2017) will be September 2014, which is the most recent non-preliminary Index in effect at the time of contract execution.

3.2.1 Price adjustments for Preventative Maintenance will be based on a weight of 60% for Index 1 and 40% for Index 2. The allowable percentage of the price adjustment will be calculated according to the formula below:

$$\text{Adjusted Price} = \text{Preventative Maintenance Rate}^* + (C \times \text{Preventative Maintenance Rate}^*)$$

**refers to the Preventative Maintenance rate in effect at the time of price adjustment request (items 1, 2, and 3 in the current Fee Schedule).*

$$A = (\text{Base Month for Index 1} \times 60\%) + (\text{Base Month for Index 2} \times 40\%)$$

$$B = (\text{New Month for Index 1} \times 60\%) + (\text{New Month for Index 2} \times 40\%)$$

$$C = [(B - A) / A] \times 100 = \text{percent of allowable price change}$$

For the purposes of illustration only, if the Base Month for Index 1 is 115; the Base Month for Index 2 is 120; the New Month for Index 1 is 117; the New Month for Index 2 is 125; and the Preventative Maintenance Rate is \$3,700 per quarter; then:

$$A = (115 \times 60\%) + (120 \times 40\%) = 69 + 48 = 117$$

$$B = (117 \times 60\%) + (125 \times 40\%) = 70.2 + 50 = 120.2$$

$$C = [(120.2 - 117) / 117] \times 100 = [3.2 / 117] \times 100 = [0.0274] \times 100 = 2.74\%$$

$$\text{Adjusted Price} = 3,700 + (2.74\% \times \$3,700) = \$3,700 + (101.38) = 3,801.38$$

The Preventative Maintenance Rate will therefore increase from \$3,700 to \$3,801.38.

3.2.2 Price adjustments for Repairs outside of Regular Business Hours will be based on Index 1. The allowable percentage of the price adjustment will be calculated according to the formula below:

$$\text{Adjusted Price} = \text{Repairs Outside of Regular Business Hours}^* + (C \times \text{Repairs Outside of Regular Business Hours}^*)$$

**refers to the Repairs Outside of Regular Business Hours rate in effect at the time of price adjustment request (item 5 in the current Fee Schedule).*

$$A = (\text{Base Month for Index 1} \times 60\%) + (\text{Base Month for Index 2} \times 40\%)$$

$$B = (\text{New Month for Index 1} \times 60\%) + (\text{New Month for Index 2} \times 40\%)$$

$$C = [B - A] / A \times 100 = \text{percent of allowable price change}$$

For the purposes of illustration only, if the Base Month for Index 1 is 115; the New Month for Index 1 is 120; and the rate for Repairs outside of Regular Business Hours is \$135 an hour; then:

$$A = 115$$

$$B = 120$$

$$C = [(120 - 115) / 115] \times 100 = [5 / 115] \times 100 = [0.0434] \times 100 = 4.34\%$$

$$\text{Adjusted Price} = \$135 + (4.34\% \times \$135) = \$135 + (5.86) = \$140.86$$

The rate for Repairs outside of Regular Business Hours will therefore increase from \$135 an hour to \$140.86 an hour.

3.2.3 Request to adjust prices and/or Index weights must be made in writing and submitted to the City's Contract Manager prior to each yearly anniversary date of the Contract. The Contractor may submit a request for price adjustment beginning January 1 and no later than February 15 of the same year. Prices and Index weights will only be considered for adjustment at that time.

Once received, the City will have 15 business days to review and approve/disapprove the requested adjustment. Should the City not agree with the requested adjustment, Contractor may either maintain the prices currently in effect, negotiate an acceptable increase with the City or terminate the Contract.

Contractor shall apply the adjusted price after price adjustment is formalized by an executed amendment to this Contract.

The written request must be signed by a person with the authority to contractually bind the Contractor, shall reference the contract number, and include the following justification:

- 3.2.3.1 A copy of the relevant Index or Indices for the requested price increase; and/or
- 3.2.3.2 Documentation substantiating modification to the weights applied to each of the Indices.

3.3 Invoices.

3.3.1 **Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department’s Name, and the name of the point of contact for the Department.** Invoices shall be itemized. The Contractor’s name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor’s registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor’s invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be mailed to the below address:

	City of Austin
Department	Austin Convention Center Department
Attn:	Accounts Payable
Address	500 E. Cesar Chavez
City, State, Zip Code	Austin, TX 78701

3.3.2 Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.

3.3.3 Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

3.3.4 Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

3.4 Payment.

3.4.1 Contractor shall submit invoices on a monthly basis for repairs; on a quarterly basis for preventative maintenance; and upon final written acceptance of purchases or upgrades:

3.4.2 Contractor shall include with invoices, work tickets signed off by the Contract Manager or designee or the Parking Services Supervisor as indicated in Section 2.1.7.

3.4.3 All proper invoices received by the City will be paid within thirty (30) calendar days of the City’s receipt of the deliverables or of the invoice, whichever is later.

3.4.4 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

3.4.5 The City may withhold or off set the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

- 3.4.5.1 delivery of defective or non-conforming deliverables by the Contractor;

- 3.4.5.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
- 3.4.5.3 failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
- 3.4.5.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
- 3.4.5.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- 3.4.5.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
- 3.4.5.7 failure of the Contractor to comply with any material provision of the Contract Documents.

3.4.6 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

3.4.7 Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

3.5 **Non-Appropriation.** The awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this Contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

3.6 **Final Payment and Close-Out.**

3.6.1 The making and acceptance of final payment will constitute:

3.6.1.1 a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

3.6.1.2 a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

SECTION 4. TERM AND TERMINATION

4.1 **Term of Contract.** This Contract shall become effective on the date executed by the City ("Effective Date") for an initial term of thirty-six (36) months and may be extended thereafter for up to one (1) additional 36-month period, subject to the approval of the Contractor and the City Purchasing Officer or designee.

4.2 **Right To Assurance.** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

4.3 **Default.** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the “Right to Assurance paragraph herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor’s Offer, or in any report or deliverable required to be submitted by Contractor to the City.

4.4 **Termination For Cause.** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City’s reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the “City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors” and remove the Contractor from the City’s vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor’s default, including, without limitation, cost of cover, reasonable attorneys’ fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

4.5 **Termination Without Cause.** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

4.6 **Fraud.** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

SECTION 5. OTHER DELIVERABLES

5.1 **Insurance:** The following insurance requirements apply.

5.1.1 **General Requirements.**

5.1.1.1 The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.

5.1.1.2 The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to Contract execution and within fourteen (14) calendar days after written request from the City.

5.1.1.3 The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

5.1.1.4 The Contractor shall not commence work until the required insurance is obtained and has been reviewed by City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

5.1.1.5 The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

5.1.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

5.1.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

City of Austin
Purchasing Office
P. O. Box 1088
Austin, Texas 78767

5.1.1.8 The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

5.1.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

5.1.1.10 The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

5.1.1.11 The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

5.1.1.12 The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

5.1.1.13 The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

5.1.1.14 The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

5.1.2 **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

5.1.2.1 **Commercial General Liability Insurance.** The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries). The policy shall contain the following provisions and endorsements.

5.1.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

5.1.2.1.2 Contractor/Subcontracted Work.

5.1.2.1.3 Products/Completed Operations Liability for the duration of the warranty period.

5.1.2.1.4 Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage.

5.1.2.1.5 Thirty (30) calendar days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage.

5.1.2.1.6 The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.

5.1.2.2 **Business Automobile Liability Insurance.** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements:

5.1.2.2.1 Waiver of Subrogation, Endorsement CA0444, or equivalent coverage.

5.1.2.2.2 Thirty (30) calendar days Notice of Cancellation, Endorsement CA0244, or equivalent coverage.

5.1.2.2.3 The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.

5.1.2.3 **Worker's Compensation and Employers' Liability Insurance.** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee. The policy shall contain the following provisions and endorsements:

5.1.2.3.1 The Contractor's policy shall apply to the State of Texas.

5.1.2.3.2 Waiver of Subrogation, Form WC420304, or equivalent coverage.

5.1.2.3.3 Thirty (30) calendar days Notice of Cancellation, Form WC420601, or equivalent coverage.

5.1.2.5 **Endorsements.** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

5.2 **Equal Opportunity.**

5.2.1 **Equal Employment Opportunity.** No Contractor or Contractor's agent shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit A. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

5.2.2 **Americans With Disabilities Act (ADA) Compliance.** No Contractor, or Contractor's agent shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

5.3 **Acceptance of Incomplete or Non-Conforming Deliverables.** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

5.4 **Delays.**

5.4.1 The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

5.4.2 Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in Contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

SECTION 6. WARRANTIES

6.1 **Warranty – Price.**

6.1.1 The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.1.2 The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

6.1.3 In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.2 **Warranty – Services.** The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

6.2.1 The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

6.2.2 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the acceptance date. If during the warranty period, one or more of the warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

6.2.3 If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

SECTION 7. MISCELLANEOUS

7.1 **Place and Condition of Work.** The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the Contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

7.2 Workforce.

7.2.1 The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

7.2.2 The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property:

7.2.2.1 use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the Contract; and

7.2.2.2 use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

7.2.3 If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

7.3 **Compliance with Health, Safety, and Environmental Regulations.** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

7.4 **Significant Event.** The Contractor shall immediately notify the City's Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to the Contract Manager. As used in this provision, a "significant event" is any occurrence or anticipated occurrence which might reasonably be expected to have a material effect upon the Contractor's ability to meet its contractual obligations. Significant events may include but not be limited to the following:

7.4.1 disposal of major assets;

7.4.2 any major computer software conversion, enhancement or modification to the operating systems, security systems, and application software, used in the performance of this Contract;

7.4.3 any significant termination or addition of provider contracts;

7.4.4 the Contractor's insolvency or the imposition of, or notice of the intent to impose, a receivership, conservatorship or special regulatory monitoring, or any bankruptcy proceedings, voluntary or involuntary, or reorganization proceedings;

7.4.5 strikes, slow-downs or substantial impairment of the Contractor's facilities or of other facilities used by the Contractor in the performance of this Contract;

7.4.6 reorganization, reduction and/or relocation in key personnel;

7.4.7 known or anticipated sale, merger, or acquisition;

7.4.8 known, planned or anticipated stock sales;

7.4.9 any litigation against the Contractor; or

7.4.10 significant change in market share or product focus.

7.5 **Right To Audit.**

7.5.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

7.5.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

7.6 **Stop Work Notice.** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work

until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

7.7 **Indemnity.**

7.7.1 Definitions:

7.7.1.1 "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:

7.7.1.1.1 damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or;

7.7.1.1.2 death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),

7.7.1.2 "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

7.7.2 THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

7.8 **Claims.** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

7.9 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:

City of Austin, Purchasing Office

ATTN: Sandy Brandt, Contract Administrator

P O Box 1088

To the Contractor:

Mitchell Time and Parking

ATTN: Gary Hobbs, Contract Manager

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7.10 **Confidentiality.** In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

7.11 **Advertising.** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

7.12 **No Contingent Fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

7.13 **Gratuities.** The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

7.14 **Prohibition Against Personal Interest in Contracts.** No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

7.15 **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

7.16 **Assignment-Delegation.** The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in

conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

7.17 **Waiver.** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

7.18 **Modifications.** The Contract can be modified or amended only in writing signed by both parties. No pre-printed or similar terms on any Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

7.19 **Interpretation.** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

7.20 **Dispute Resolution.**

7.20.1 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

7.20.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

7.21 **Minority And Women Owned Business Enterprise (MBE/WBE) Procurement Program.**

7.21.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The

Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

7.21.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

7.21.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Contractor must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

7.22 **Subcontractors.**

7.22.1 If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan, the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

7.22.2 Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

7.22.2.1 require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract.

7.22.2.2 prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

7.22.2.3 require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

7.22.2.4 require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

7.22.2.5 require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

7.22.3 The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

7.22.4 The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

7.23 **Jurisdiction And Venue.** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

7.24 **Invalidity.** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

7.25 **Holidays.** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

7.26 **Survivability of Obligations.** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

7.27 **Non-Suspension or Debarment Certification.** The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the

Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

7.28 **Incorporation of Documents.** Section 0100, Standard Purchase Definitions, is hereby incorporated into this Contract by reference, with the same force and effect as if they were incorporated in full text. The full text versions of this Section are available, on the Internet at the following online address: <http://www.austintexas.gov/sites/default/files/files/Finance/Purchasing/standard-purchase-definitions.pdf>.

**MITCHELL ADDING MACHINE CO., INC.
dba MITCHELL TIME AND PARKING**

By: *[Signature]*
Signature

Name: Gary J. Hobbs
Printed Name

Title: President

Date: 3-17-15

CITY OF AUSTIN

By: *[Signature]*
Signature

Name: Sai Porcell
Printed Name

Title: Senior Buyer Specialist

Date: 3/17/15

List of Exhibits

- Exhibit A Non Discrimination Certification
- Exhibit B Equipment and Software List
- Exhibit C Fee Schedule

EXHIBIT A
City of Austin, Texas
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE
NON-DISCRIMINATION CERTIFICATION

City of Austin, Texas
Human Rights Commission

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

Sec. 4-2 Discriminatory Employment Practices Prohibited. As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

- (B) (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

City of Austin
Minimum Standard Non-Discrimination in Employment Policy:

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, OR THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 17th day of March, 2015

CONTRACTOR

Authorized
Signature

Title

mitchell Adding Machine
Co., Inc, DBA Mitchell Time +
Parking
[Signature]
President

**EXHIBIT B
EQUIPMENT AND SOFTWARE LIST**

May be modified by written amendment to this Contract.

5th Street Garage

Description	Serial #
AGP-1711 PARKING GATE	643027390
AGP-1711 PARKING GATE	643027363
AGP-1711 PARKING GATE	643027364
AGP-1711 PARKING GATE	643026904
L5 LOOPS 2' x 6' w/ 25' LEAD-IN	(8 EACH)
ETP-22 WHITE TICKET DISPENSER	643027239
ETP-22 WHITE TICKET DISPENSER	643027423
KIT-10 COUNT SIGNAL BOARD	(4 EACH)
AGP-5200 FEE COMPUTER CASH DRAWER, TILL TRAY & LOCKING COVER	(2 EACH)
DT280 PMDL PROXIMITY READER	12998
DT280 PMDL PROXIMITY READER	12999
DT280 PMDL PROXIMITY READER	12997
DT280 PMDL PROXIMITY READER	12996
AGP-5200 FEE COMPUTER	643002715
AGP-5200 FEE COMPUTER	643002734
AGP-5600 READER/VALIDATOR	643002070
AGP-5600 READER/VALIDATOR	643002071
AGP-5900 FEE INDICATOR	643002711
AGP-5900 FEE INDICATOR	643002714
AGP-6800 PAY STATION	1832
INK STAMP FOR HR-200	(2 EACH)
HR-200 HAND ENCODER	643001468
HR-200 HAND ENCODER	643001470
HR-200 BASE	(2 EACH)
TC CONVERTER	(3 EACH)
SIGNAL TECH 1212 GR-175 ARROW CPM SIGN	(12 EACH)
P90 SIGNAL POST	(9 EACH)
TCL 718 GR-220 OPEN FULL SIGN	
DOUBLE THROW SWITCHES	(3 EACH)
DELL COMPUTER	(2 EACH)
AGP 6800 Pay In Lane	
UPS BATTERY BACKUP	
8 PORT ROCKET PORT BOARD	

Brazos Street Garage

Description	Serial #
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033899
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033898
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033894
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033901
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663033893
AGP-1711 WHITE PARKING GATE w/ DETECTOR	663034175
L5 LOOPS 2' x 6' w/ 25' LEAD-IN	(2 EACH)
KIT-10 COUNT SIGNAL BOARD	(6 EACH)
ETP-22SNY MAG TICKET DISPENSER	663033939
ETP-22SNY MAG TICKET DISPENSER	663033941
AGP-5200 FEE COMPUTER	663003518
AGP-5200 FEE COMPUTER	663003515
TILL TRAY w/ LOCKING COVER	(2 EACH)
AGP-5600 READER/VALIDATOR	663002616
AGP-5600 READER/VALIDATOR	663002618
AGP-5900 FEE INDICATOR	662003346
AGP-5900 FEE INDICATOR	662003343
AGP-6800 PAY STATION	1836
AGP-6800 PAY STATION	1838
PEDESTAL FOR CARD READERS	(6 EACH)
TC CONVERTER	(3 EACH)
HR-200 CLAMSHELL HAND ENCODER	(2 EACH)
HR-200 BASE	(2 EACH)
2.4 GHZ INTEL PENTIUM 4	295534534
I/O PANELS	(2 EACH)
PRX 280M DUAL TECH PROXIMITY READER	15247
PRX 280M DUAL TECH PROXIMITY READER	15250
PRX 280M DUAL TECH PROXIMITY READER	15252
PRX 280M DUAL TECH PROXIMITY READER	15242
PRX 280M DUAL TECH PROXIMITY READER	15243
PRX 280M DUAL TECH PROXIMITY READER	15248

Palmer Events Center

Description	Serial #
AGP-1711 PARKING GATE w/ DETECTOR	683044816
AGP-1711 PARKING GATE w/ DETECTOR	664035294
AGP-1711 PARKING GATE w/ DETECTOR	664035437

AGP-1711 PARKING GATE w/ DETECTOR	663033892
AGP-1711 PARKING GATE w/ DETECTOR	663034176
AGP-1711 PARKING GATE w/ DETECTOR	664035439
AGP-1711 PARKING GATE w/ DETECTOR	664035435
AGP-1711 PARKING GATE w/ DETECTOR	664035438
KIT-10 COUNT SIGNAL BOARD	(7 EACH)
ETP-22SNY MAG-STRIPE TICKET DISPENSER	664035486
ETP-22SNY MAG-STRIPE TICKET DISPENSER	664034713
ETP-22SNY MAG-STRIPE TICKET DISPENSER	672077211
ETP-22SNY MAG-STRIPE TICKET DISPENSER	664034712
AGP-5200 FEE COMPUTER	683004381
AGP-5200 FEE COMPUTER	663003577
AGP-5200 FEE COMPUTER	663003531
AGP-5200 FEE COMPUTER	663003510
AGP-5600 READER/VALIDATOR	663002615
AGP-5600 READER/VALIDATOR	662002570
AGP-5600 READER/VALIDATOR	664002707
AGP-5900 FEE INDICATOR	654003498
AGP-5900 FEE INDICATOR	663003367
AGP-5900 FEE INDICATOR	662003342
HR-200(STORE VALIDATION) HAND ENCODER	672004021
HR-200(STORE VALIDATION) HAND ENCODER	672004006
I/O PANELS	(4 EACH)
PRX280M PROXIMITY READER	15251
PRX280M PROXIMITY READER	18197
PRX280M PROXIMITY READER	15245
PRX280M PROXIMITY READER	15249
PRX280M PROXIMITY READER	15243
PRX280M PROXIMITY READER	15246
PRX280M PROXIMITY READER	15241
PRX280M PROXIMITY READER	15244
DELL LANE CONTROLLER COMPUTER	

Software

Description
Amano McGann iParcProfessional Access Software
Amano McGann iParcProfessional Revenue Software
Amano McGann iParcProfessional Level Count Software Module
Amano McGann iParcProfessional Credit Card Processing Module
Amano McGann iParcProfessional Event Management Revenue Software

**EXHIBIT C
FEE SCHEDULE**

May be modified by written amendment to this Contract.

SERVICE DESCRIPTION	INTERVAL	FEE
1. Preventative Maintenance during Regular Business Hours for 5 th Street Garage	Quarterly	\$3,959 per quarter
2. Preventative Maintenance during Regular Business Hours for 2 nd Street Garage (Brazos Street)	Quarterly	\$3,959 per quarter
3. Preventative Maintenance during Regular Business Hours for Palmer Events Center.	Quarterly	\$5,694.75 per quarter
4. Repairs during Regular Business Hours	As needed	\$0, included in quarterly fees
5. Repairs outside of Regular Business Hours	As needed	\$135 per hour

MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)

MBE/WBE UTILIZATION FORM

- SOLE/SINGLE SOURCE
- PROFESSIONAL SERVICES

Even though no goals have been established for this contract, the Offeror is invited to comply with the City's MBE/WBE Procurement Program, if areas of subcontracting are identified.

If any service is needed to perform the Contract and the Offeror does not perform the service with its own workforce or if supplies or materials are required and the Offeror does not have the supplies or materials in its inventory, the Offeror is encouraged to contact the Small and Minority Business Resources Department (SMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Offeror is also encouraged to make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

Will subcontractors or sub-consultants or suppliers be used to perform portions of this Contract?

No X

Yes If yes, contact SMBR at (512) 974-7600 to obtain an availability list.

I understand that even though no goals have been established, I am encouraged to comply with the City of Austin's MBE/WBE Procurement Program if subcontracting areas are identified. I agree that this Form and Utilization Plan shall become a part of my Contract.

Mitchell Adding Machine Co., Inc., DBA Mitchell Time & Parking
Company Name

Gary J. Hobbs, Executive Vice President
Name and Title of Authorized Representative (Print or Type)


Signature

2/9/15
Date

FOR SMALL AND MINORITY BUSINESS RESOURCES DEPARTMENT USE ONLY:

 APPROVAL IS HEREBY GRANTED.

 APPROVAL IS HEREBY DENIED. CONTACT SMBR FOR ADDITIONAL INFORMATION.

Reviewing Counselor Date